

AMENDED IN SENATE JULY 27, 1998

AMENDED IN SENATE JUNE 23, 1998

AMENDED IN ASSEMBLY APRIL 23, 1998

AMENDED IN ASSEMBLY APRIL 2, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2035

Introduced by Assembly Member Cardenas

February 18, 1998

An act to amend Sections 14524, 14525, and 65086.5 of the Government Code, and to amend Sections 163, 164, 182.7, 188.8, and 188.10 of, and to repeal Section 164.1 of, the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2035, as amended, Cardenas. Transportation: funding.

(1) Existing law requires the Department of Transportation to submit to the California Transportation Commission, as specified, a 4-year estimate in annual increments of all federal and state funds reasonably expected to be available for transportation capital improvement projects. Existing law requires the commission, as specified, to adopt a 4-year estimate in annual increments of all state and federal funds reasonably expected to be available for transportation capital improvement projects.

This bill would prohibit federal funds available for demonstration projects that are not subject to federal obligational authority, or are accompanied with their own dedicated obligational authority, from being considered funds that would otherwise be available to the state and included in the fund estimate.

The bill would define “federal funds,” for purposes of preparing the fund estimates, as any obligational authority to be provided under annual federal transportation appropriations acts.

(2) The bill would make other, technical changes in existing law relating to transportation.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14524 of the Government Code
2 is amended to read:

3 14524. (a) Not later than January 5, 1998, and July 15
4 of each odd-numbered year thereafter, the department
5 shall submit to the commission a four-year estimate
6 pursuant to Section 164 of the Streets and Highways
7 Code, in annual increments, of all federal and state funds
8 reasonably expected to be available during the following
9 four fiscal years.

10 (b) The estimate shall specify the amount that may be
11 programmed in each county for regional improvement
12 programs pursuant to paragraph (2) of subdivision (a) of
13 Section 164 of the Streets and Highways Code and shall
14 identify any statutory restriction on the use of particular
15 funds.

16 (c) For the purpose of estimating revenues, the
17 department shall assume that there will be no changes in
18 existing state and federal statutes. Federal funds available
19 for demonstration projects that are not subject to federal
20 obligational authority, or are accompanied with their own
21 dedicated obligational authority, shall not be considered



1 funds that would otherwise be available to the state and
2 shall not be included in the fund estimate.

3 (d) The method by which the estimate is determined
4 shall be determined by the commission, in consultation
5 with the department, transportation planning agencies,
6 and county transportation commissions.

7 SEC. 2. Section 14525 of the Government Code is
8 amended to read:

9 14525. (a) Not later than January 5, 1998, and August
10 15 of each odd-numbered year thereafter, the
11 commission shall adopt a four-year estimate pursuant to
12 Section 164 of the Streets and Highways Code, in annual
13 increments, of all state and federal funds reasonably
14 expected to be available during the following four fiscal
15 years.

16 (b) The estimate shall specify the amount that may be
17 programmed in each county for regional improvement
18 programs under paragraph (2) of subdivision (a) of
19 Section 164 of the Streets and Highways Code and shall
20 identify any statutory restriction on the use of particular
21 funds.

22 (c) For the purpose of estimating revenues, the
23 commission shall assume that there will be no change in
24 existing state and federal statutes. Federal funds available
25 for demonstration projects that are not subject to federal
26 obligational authority, or are accompanied with their own
27 dedicated obligational authority, shall not be considered
28 funds that would otherwise be available to the state and
29 shall not be included in the fund estimate.

30 (d) If the commission finds that legislation pending
31 before the Legislature or the United States Congress may
32 have a significant impact on the fund estimate, the
33 commission may postpone the adoption of the fund
34 estimate for no more than 90 days. Prior to March 1 of
35 each even-numbered year, the commission may amend
36 the estimate following consultation with the department,
37 transportation planning agencies, and county
38 transportation commissions to account for unexpected
39 revenues or other unforeseen circumstances. In the event
40 the fund estimate is amended, the commission shall

1 extend the dates for the submittal of improvement
2 programs as specified in Sections 14526 and 14527 and for
3 the adoption of the state transportation improvement
4 program pursuant to Section 14529.

5 SEC. 3. Section 65086.5 of the Government Code is
6 amended to read:

7 65086.5. (a) To the extent that the work does not
8 jeopardize the delivery of the projects in the adopted
9 state transportation improvement program, the
10 Department of Transportation may prepare a project
11 studies report for capacity-increasing state highway
12 projects that are not included in the state transportation
13 improvement program. Preparation of the project
14 studies report shall be limited by the resources available
15 to the department for that work, supplemented, as
16 appropriate, by regional or local resources. The project
17 studies report shall include the project-related factors of
18 limits, description, scope, costs, and the amount of time
19 needed for initiating construction.

20 (b) Whenever project studies reports are performed
21 by an entity other than the Department of
22 Transportation, the department shall review and
23 approve the report.

24 (c) The Department of Transportation may be
25 requested to prepare a project studies report for a
26 capacity-increasing state highway project which is being
27 proposed for inclusion in a future state transportation
28 improvement program. The department shall have 30
29 days to determine whether it can complete the requested
30 report in a timely fashion. If the department determines
31 that it cannot complete the report in a timely fashion, the
32 requesting entity may prepare the report. Upon
33 submission of a project studies report to the department
34 by the entity, the department shall complete its review
35 and provide its comments to that entity within 60 days
36 from the date of submission. The department shall
37 complete its review and final determination of a report
38 which has been revised to address the department's
39 comments within 30 days following submission of the
40 revised report.

1 (d) The Department of Transportation, in
2 consultation with representatives of cities, counties, and
3 regional transportation planning agencies, shall prepare
4 draft guidelines for the preparation of project studies
5 reports by all entities. The guidelines shall address the
6 development of reliable cost estimates. The department
7 shall submit the draft guidelines to the California
8 Transportation Commission not later than July 1, 1991.
9 The commission shall adopt the final guidelines not later
10 than October 1, 1991. Guidelines adopted by the
11 commission shall apply only to project studies reports
12 commenced after October 1, 1991.

13 SEC. 4. Section 163 of the Streets and Highways Code
14 is amended to read:

15 163. The Legislature, through the enactment of this
16 section, intends to establish a policy for the use of all
17 transportation funds that are available to the state,
18 including the State Highway Account, the Public
19 Transportation Account, and federal funds. For the
20 purposes of this section, "federal funds" means any
21 obligational authority to be provided under annual
22 federal transportation appropriations acts. The
23 department and the commission shall prepare fund
24 estimates pursuant to Sections 14524 and 14525 of the
25 Government Code based on the following:

26 (a) Annual expenditures for the administration of the
27 department shall be the same as the most recent Budget
28 Act, adjusted for inflation.

29 (b) Annual expenditures for the maintenance and
30 operation of the state highway system shall be the same
31 as the most recent Budget Act, adjusted for inflation and
32 inventory.

33 (c) Annual expenditure for the rehabilitation of the
34 state highway system shall be the same as the most recent
35 Budget Act, or, if a long-range rehabilitation plan has
36 been enacted pursuant to Section 164.6, it shall be based
37 on planned expenditures in a long-range rehabilitation
38 plan prepared by the department pursuant to Section
39 164.6.

1 (d) Annual expenditures for local assistance shall be
2 the amount required to fund local assistance programs
3 required by state or federal law or regulations, including,
4 but not limited to, railroad grade crossing maintenance,
5 bicycle lane account, congestion mitigation and air
6 quality, regional surface transportation programs, local
7 highway bridge replacement and rehabilitation, local
8 seismic retrofit, local hazard elimination and safety, and
9 local emergency relief.

10 (e) After deducting expenditures for administration,
11 operation, maintenance, local assistance, safety, and
12 rehabilitation pursuant to subdivisions (a), (b), (c), and
13 (d), and for expenditures pursuant to Section 164.56, the
14 remaining funds shall be available for capital
15 improvement projects to be programmed in the state
16 transportation improvement program.

17 SEC. 5. Section 164 of the Streets and Highways Code
18 is amended to read:

19 164. (a) Funds made available for transportation
20 capital improvement projects under subdivision (e) of
21 Section 163 shall be programmed and expended for the
22 following program categories:

23 (1) Twenty-five percent for interregional
24 improvements.

25 (2) Seventy-five percent for regional improvements.

26 (b) Sixty percent of the funds available for
27 interregional improvements under paragraph (1) of
28 subdivision (a) shall be programmed and expended for
29 improvements to state highways that are specified in
30 Sections 164.10 to 164.20, inclusive, and that are outside
31 the boundaries of an urbanized area with a population of
32 more than 50,000, and for intercity rail improvements.

33 (c) Not less than 15 percent of the amount of funds
34 programmed under subdivision (b) shall be programmed
35 for intercity rail improvement projects, including
36 separation of grade projects.

37 (d) Funds made available under paragraph (1) of
38 subdivision (a) shall be used for transportation
39 improvement projects that are needed to facilitate
40 interregional movement of people and goods. The

1 projects may include state highway, intercity passenger
2 rail, mass transit guideway, or grade separation projects.

3 (e) Funds made available under paragraph (2) of
4 subdivision (a) shall be used for transportation
5 improvement projects that are needed to improve
6 transportation within the region. The projects may
7 include, but shall not be limited to, improving state
8 highways, local roads, public transit, intercity rail,
9 pedestrian, and bicycle facilities, and grade separation,
10 transportation system management, transportation
11 demand management, soundwall projects, intermodal
12 facilities, safety, and providing funds to match federal
13 funds.

14 SEC. 6. Section 164.1 of the Streets and Highways
15 Code is repealed.

16 SEC. 7. *Section 182.7 of the Streets and Highways*
17 *Code is amended to read:*

18 182.7. (a) Notwithstanding Sections 182 and 182.5,
19 Sections 188, 188.8, and 825 do not apply to the
20 expenditure of federal funds apportioned to the state
21 pursuant to subsection (b)(2) of Section 104 of Title 23 of
22 the United States Code. These funds shall be known as the
23 congestion mitigation and air quality program funds and
24 shall be expended in accordance with Section 19 of Title
25 3 of the United States Code. The department, the
26 transportation planning agencies, and the metropolitan
27 planning organizations may do all things necessary in
28 their jurisdictions to secure and expend those federal
29 funds in accordance with the intent of federal law and this
30 chapter.

31 (b) The congestion mitigation and air quality program
32 funds, *including any funds to which subsection (c) of*
33 *Section 110 of Title 23 of the United States Code, as added*
34 *by subdivision (a) of Section 1310 of Public Law 105-178,*
35 *applies,* shall be apportioned by the department to the
36 metropolitan planning organizations designated
37 pursuant to Section 134 of Title 23 of the United States
38 Code and, in areas where none has been designated, to
39 the transportation planning agency established by
40 Section 29532 of the Government Code. The funds shall

1 be apportioned to metropolitan planning organizations
2 and transportation planning agencies responsible for air
3 quality conformity determinations in federally
4 designated air quality nonattainment and maintenance
5 areas within the state in the manner and in accordance
6 with the formula set forth in subsection (b)(2) of Section
7 104 of Title 23 of the United States Code.

8 (c) Notwithstanding subdivision (b), where county
9 transportation commissions have been created by
10 Division 12 (commencing with Section 130000) of the
11 Public Utilities Code, all congestion mitigation and air
12 quality program funds shall be further apportioned by the
13 metropolitan planning organization to the county
14 transportation commission on the basis of relative
15 population within the federally designated air quality
16 nonattainment and maintenance areas after first
17 apportioning to the nonattainment and maintenance
18 areas in the manner and in accordance with the formula
19 set forth in subsection (b)(2) of Section 104 of Title 23 of
20 the United States Code.

21 In the Monterey Bay region, all congestion mitigation
22 and air quality improvement program funds shall be
23 further apportioned, on the basis of relative population,
24 by the metropolitan planning organization to the
25 regional transportation planning agencies designated
26 under subdivision (b) of Section 29532 of the
27 Government Code.

28 (d) The department shall notify each metropolitan
29 planning organization, transportation planning agency,
30 and county transportation commission receiving an
31 apportionment under this section, as soon as possible each
32 year, of the amount of obligational authority estimated to
33 be available for expenditure from the federal
34 apportionment. The metropolitan planning
35 organizations, transportation planning agencies, and
36 county transportation commissions, in cooperation with
37 the department, congestion management agencies, cities
38 and counties, and affected transit operators, shall select
39 and program projects in conformance with federal law.
40 Each metropolitan planning organization and

1 transportation planning agency shall, not later than
2 August 1 of each even-numbered year beginning in 1994,
3 submit its transportation improvement program
4 prepared pursuant to Section 134 of Title 23 of the United
5 States Code to the department for incorporation into the
6 state transportation improvement program.

7 (e) Not later than July 1 of each year, the metropolitan
8 planning organizations and the transportation planning
9 agencies receiving obligational authority under this
10 section, shall notify the department if they will not use all
11 of the available obligational authority, and the amount of
12 obligational authority that will not be used. Unused
13 obligational authority shall be made available for use by
14 the department. If the department does not have
15 sufficient federal apportionments to fully use excess
16 obligational authority, the metropolitan planning
17 organization or transportation planning agency
18 relinquishing obligational authority shall make sufficient
19 apportionments available to the department to fund
20 alternate projects, when practical, within the
21 geographical areas relinquishing the obligational
22 authority. Notwithstanding this subdivision, the
23 department shall comply with subsection (f) of Section
24 133 of Title 23 of the United States Code.

25 *SEC. 8.* Section 188.8 of the Streets and Highways
26 Code is amended to read:

27 188.8. (a) From the funds programmed pursuant to
28 Section 188 for regional improvement projects, the
29 commission shall approve programs and program
30 amendments, so that funding is distributed to each
31 county of County Group No. 1 and in each county of
32 County Group No. 2 during the county share periods
33 commencing July 1, 1997, and ending June 30, 2004, and
34 each period of four years thereafter. The amount shall be
35 computed as follows:

36 (1) The commission shall compute, for the county
37 share periods all of the money to be expended for regional
38 improvement projects in County Groups Nos. 1 and 2,
39 respectively, as provided in Section 188.

1 (2) From the amount computed for County Group No.
2 1 in paragraph (1) for the county share periods the
3 commission shall determine the amount of programming
4 for each county in the group based on a formula which is
5 based 75 percent on the population of the county to the
6 total population of County Group No. 1 and 25 percent on
7 state highway miles in the county to the total state
8 highway miles in County Group No. 1.

9 (3) From the amount computed for County Group No.
10 2 in paragraph (1) for the county share periods the
11 commission shall determine the amount of programming
12 for each county in the group based on a formula which is
13 based 75 percent on the population of the county to the
14 total population of County Group No. 2 and 25 percent on
15 state highway miles in the county to the total state
16 highway miles in County Group No. 2.

17 (b) Notwithstanding subdivision (a), that portion of
18 the county population and state highway mileage in El
19 Dorado and Placer Counties that is included within the
20 jurisdiction of the Tahoe Regional Planning Agency shall
21 be counted separately toward the area under the
22 jurisdiction of the Tahoe Regional Transportation Agency
23 and shall not be included in El Dorado and Placer
24 Counties. The commission shall approve programs,
25 program amendments, and fund reservations for the area
26 under the jurisdiction of the Tahoe Regional
27 Transportation Agency which shall be calculated using
28 the formula described in paragraph (2) of subdivision
29 (a).

30 (c) A transportation planning agency designated
31 pursuant to Section 29532 of the Government Code, or a
32 county transportation commission created by Division 12
33 (commencing with Section 130000) of the Public Utilities
34 Code, may adopt a resolution to pool its county share
35 programming with any county or counties adopting
36 similar resolutions to consolidate its county shares for two
37 consecutive county share periods into a single share
38 covering both periods. A multicounty transportation
39 planning agency with a population of less than three
40 million may also adopt a resolution to pool the share of any

1 county or counties within its region. The resolution shall
2 provide for pooling the county share programming in any
3 of the pooling counties for the new single share period
4 and shall be submitted to the commission not later than
5 May 1 immediately preceding the commencement of the
6 county share period.

7 (d) For the purposes of this section, funds
8 programmed shall include the following costs pursuant to
9 subdivision (b) of Section 14529 of the Government Code:

10 (1) The amounts programmed or budgeted for both
11 components of project development in the original
12 programmed year.

13 (2) The amount programmed for right-of-way in the
14 year programmed in the most recent state transportation
15 improvement program. If the final estimate is greater
16 than 120 percent of the amount originally programmed,
17 the amount shall be adjusted for final expenditure
18 estimates at the time of right-of-way certification.

19 (3) The engineer's final estimate of project costs,
20 including construction engineering, presented to the
21 commission for approval pursuant to Section 14533 of the
22 Government Code in the year programmed in the most
23 recent state transportation improvement program.

24 (4) Project costs shown in the program, as amended,
25 where project allocations have not yet been approved by
26 the commission, escalated to the date of scheduled
27 project delivery.

28 (e) Project costs shall not be changed to reflect any of
29 the following:

30 (1) Differences that are within 20 percent of the
31 amount programmed for actual project development
32 cost.

33 (2) Actual right-of-way purchase costs.

34 (3) Construction contract award amounts.

35 (4) Changes in construction expenditures, except for
36 supplemental project allocations made by the
37 commission.

38 (f) For the purposes of this section, the population in
39 each county is that determined by the last preceding
40 federal census, or a subsequent census validated by the

1 Population Research Unit of the Department of Finance,
2 at the beginning of each county share period.

3 (g) For the purposes of this section, “state highway
4 miles” means the miles of state highways open to
5 vehicular traffic at the beginning of each county share
6 period.

7 (h) It is the intent of the Legislature that there is to be
8 flexibility in programming under this section and Section
9 188 so that, while ensuring that each county will receive
10 an equitable share of state transportation improvement
11 program funding, the types of projects selected and the
12 programs from which they are funded may vary from
13 county to county.

14 (i) Commencing with the four-year period
15 commencing on July 1, 2004, individual county share
16 shortfalls and surpluses at the end of each four-year
17 period, if any, shall be carried forward and credited or
18 debited to the following four years.

19 (j) The commission, with the consent of the
20 department, may consider programming projects in the
21 state transportation improvement program in a region
22 with a population of not more than 1,000,000 at a level
23 higher or lower than a county share, when the regional
24 agency either asks to reserve part or all of its share until
25 a future programming year, to build up a larger share for
26 a higher cost project, or asks to advance an amount of the
27 share, in an amount not to exceed 200 percent of its
28 current share, for a larger project, to be deducted from
29 shares for future programming years. After consulting
30 with the department, the commission may adjust the
31 level of programming in the regional program in the
32 affected region against the level of interregional
33 programming in the improvement program to
34 accomplish the reservation or advancement, for the
35 current state transportation improvement program. The
36 commission shall keep track of any resulting shortfalls or
37 surpluses in county shares.

38 (k) Notwithstanding subdivision (a), in a region
39 defined by Section 66502 of the Government Code, the
40 transportation planning agency may adopt a resolution to



1 pool the county share of any county or counties within the
2 region, provided that each county shall receive no less
3 than 85 percent and not more than 115 percent of its
4 county share for a single county share period and 100
5 percent of its county share over two consecutive county
6 share periods. The resolution shall be submitted to the
7 commission not later than May 1, immediately preceding
8 the commencement of the county share period.

9 (I) Federal funds used for federal demonstration
10 projects that use federal obligational authority otherwise
11 available for other projects shall be subtracted from the
12 county share of the county where the project is located.

13 ~~SEC. 8.—~~

14 SEC. 9. Section 188.10 of the Streets and Highways
15 Code, as added by Section 62 of Chapter 622 of the
16 Statutes of 1997, is amended to read:

17 188.10. (a) The commission, with assistance from the
18 department and regional agencies, shall maintain a
19 long-term balance of shares, shortfalls, and surpluses for
20 regional improvement programs.

21 (b) The balance shall include all of the following:

22 (1) Shares from the fund estimate for each state
23 transportation improvement program pursuant to
24 Section 14525 of the Government Code.

25 (2) Amounts programmed in each state transportation
26 improvement program pursuant to Section 14529 of the
27 Government Code.

28 (3) Surpluses or shortfalls due to reservations or
29 advancements pursuant to subdivision (j) of Section
30 188.8.

31 (4) Amounts deducted or added because of changes in
32 project development costs or a cost increase or savings in
33 the final engineering estimate or the final right-of-way
34 certification estimate at the time of allocation for
35 construction, pursuant to subdivisions (d) and (e) of
36 Section 188.8.

37 (5) Any supplemental project allocations during or
38 following construction.

39 (6) Amounts deducted or added because of
40 amendments to the state transportation improvement

1 program that add, delete, or change the scope and cost of
2 regional improvement projects, pursuant to Section
3 14531 of the Government Code.

4 (c) The balance through the preceding fiscal year shall
5 be made available for review by all regional agencies at
6 the time of each fund estimate, and by not later than
7 August 15 of each year.

8 (d) The commission, through the fund estimate, shall
9 restore for the next state transportation improvement
10 program the interregional improvement program level
11 specified in subdivision (a) of Section 164.

12 ~~SEC. 9.—~~

13 *SEC. 10.* This act is an urgency statute necessary for
14 the immediate preservation of the public peace, health,
15 or safety within the meaning of Article IV of the
16 Constitution and shall go into immediate effect. The facts
17 constituting the necessity are:

18 In order that the 1998 State Transportation
19 Improvement Program may be implemented as soon as
20 possible, it is necessary that this act take effect
21 immediately.

